IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

Crl.MC.No. 3279 of 2007()

CC.4559/2004 of JUDL.MAGISTRATE OF FIRST CLASS-II, ALUVA

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PETITIONER/ACCUSED:

SHIJU MOHAMMED, ANZARI MANZIL,
KALLAMBALAM, THIRUVANANTHAPURAM
PRESENTLY RESIDING AT NRS BUILDING,
MANGALAPURAM, MURUKKUMPUZHA.P.O.
THIRUVANANTHAPURAM.

BY ADV. SRI.R.MANOJ

RESPONDENTS/COMPLAINANT:

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1. SHERI KURUVILA, CHIRAKKAL HOUSE,
CABLE NAGAR, KARUKUTTY, ERNAKULAM DIST.
PIN 683 576.

2. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3279 of 2007

Dated this the 25th day of October 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance has already been taken. The petitioner has not appeared before the learned Magistrate so far. Consequently, a non-bailable warrant has been issued against the petitioner by the learned Magistrate. The petitioner finds such warrant of arrest chasing him.

2. According to the petitioner, he is absolutely innocent. He is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and

expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003 (1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. The learned counsel for the petitioner submits that as a matter of fact, there was a proposal of settlement between the parties and the counsel is involved in such settlement. In the peculiar facts and circumstances of this case, there shall be a direction that warrant of arrest issued against the petitioner shall not be executed till 31/10/2007. On or before that date, the petitioner must appear before the learned Magistrate and seek regular bail.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007